

David M. Crosby, Esq.
Nevada Bar No. 003499
CROSBY & ASSOCIATES
711 S. 8th St.
Las Vegas, Nevada 89101
(702) 382-2600
Attorneys for Debtor

E-FILED 10/19/09

UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEVADA

In Re

CLARK, ANDREW & LOIS

Case No. BK-S-08-21586-LBR
Chapter 13
TRUSTEE: RICK YARNALL

Hearing Date: OCTOBER 21, 2009
Hearing Time: 10:30 a.m.

Debtor

OPPOSITION TO MOTION FOR RELIEF FROM AUTOMATIC STAY

Comes Now, Debtors, Andrew & Lois Clark, by and through their attorney, David M. Crosby, respectfully requests this Court to deny the Motion for Relief From Automatic Stay filed by U.S. BANK HOME MORTGAGE, by and through its attorney, Gregory L. Wilde, of the law firm of Wilde and Associates.

STATEMENT OF FACT

Debtor is the owner of the subject property described as 3549 Fort McHenry Drive, Las Vegas, NV 89122. Debtors filed a Chapter 13 Bankruptcy on October 2, 2008.

Debtor respectfully requests that the Motion for Relief be denied or at minimum, continued until a payment history is provided by U.S. Bank Home Mortgage that will allow debtor time to compare the payments made post-petition by debtor with the payment history. Should it be found that debtors are delinquent post-petition, debtors hereby request they be allowed to enter into an Adequate Protection Order for any post-petition arrears plus attorney fees and costs incurred with the filing of said motion.

POINTS AND AUTHORITIES

11 USC Section 362 (d) (1) states that the Court may terminate, modify or condition stay

"for cause, including the lack of adequate protection of an interest in property of such party in interest;---"

... 11 USC Section 362 (d) (2) the Court may terminate, modify or condition a stay

"with respect to a stay of an act against property under subsection (a) of this section, if-

(A) the debtor does not have an equity in such property AND

(B) such property is not necessary to an effective reorganization

CONCLUSION

THEREFORE, based upon the facts and the points and authorities set forth herein, and any arguments heard at the hearing on this matter, Debtors' request that the Motion for Relief from the Automatic Stay be denied or at minimum, the hearing be continued until a payment history is provided by U.S. Bank Home Mortgage that will allow debtor time to compare the payments made post-petition by debtor with the payment history. Should it be found that debtors are delinquent post-petition, debtors hereby request they be allowed to enter into an Adequate Protection Order for any post-petition arrears plus attorney fees and costs incurred with the filing of said motion.

DATED this 19th day of October, 2009.

CROSBY & ASSOCIATES

By: /s/ David M. Crosby
DAVID M. CROSBY, ESQ.
Nevada Bar No. 003499
711 S. 8th St.
Las Vegas, Nevada 89101
Attorneys for Debtor

CERTIFICATE OF MAILING

I, the undersigned, an employee of the Crosby & Associates, hereby certify that on the 19th day of October, 2009, I deposited in the United States Mail, first class mail, postage pre-paid, and/or faxed a true and correct copy of the **Opposition to Motion for Relief from Automatic Stay** to all parties listed below:

Rick Yarnall
701 S. Bridger Avenue #820
Las Vegas, NV 89101
(702) 853-4500/fax 853-4513

Andrew & Lois Clark
3549 Fort McHenry Drive
Las Vegas, Nevada 89122

Gregory Wilde, Esq.
Wilde & Associates
208 S. Jones Blvd.
Las Vegas, Nevada 89107
(702) 258-8200/fax 258-8787

/s/ Cindy L. Kangas

An employee of
CROSBY & ASSOCIATES